

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 15019 of 2005

Between:

M.Ramarao, S/o.Venkateswarulu,
Sattupally Khammam District.

..... PETITIONER

AND

- 1 A.P.F.D.C. Limited rep by Vice-Chairman and Managing Director, Nampally, Hyderabad.
- 2 The Divisional Manager, APFDC Kothagudem, Khammam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or directions, more in the nature of writ of Certiorari calling the records in Ref:1.4/MRR/DM/KTDM/2000/118 dt.16.4.2005 on the file of 2nd respondent herein and quash the same as illegal and arbitrary with all consequential benefits including refund of recovered amount and pass such other order or orders.

Counsel for the Petitioner : MR.P.GOVINDA RAJULU, Advocate

Counsel for the Respondent: MR.P.SREE RAMULU NAIDU, Advocate

The Court at the admission stage made the following :

ORDER:

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This Writ Petition is filed by the petitioner aggrieved by the impugned order dated 16.04.2005 by which the petitioner was imposed with the punishment of recovery of

50% progressive loss of Rs.5504.85 paise sustained by the respondent-Corporation in two monthly equal instalments. Further, as the petitioner was not staying in the headquarters, by the impugned order it is directed to recover an amount of Rs.70,909/- paid towards H.R.A., and additional HRA., for the entire period of his tenure of Pentlam & Buggapadu, in 35 equal monthly instalments at the rate of Rs.2000/- per month.

2. The grievance of the petitioner is that insofar as the first punishment is concerned, the Divisional Manager, 2nd respondent has passed the order without giving any opportunity to the petitioner to submit his explanation to the enquiry report received by him. The said action would amount to violation of principles of natural justice, and therefore, the same is liable to be quashed. With reference to the second punishment, the grievance of the petitioner is that there is no charge with reference to the said allegation that the petitioner has not stayed in the Headquarters. Therefore, no punishment could be imposed with reference to the said charge also without initiating any proceedings with reference to the said charge. Therefore, the impugned order is illegal and unsustainable, and accordingly sought to set aside the same.

3. The learned Counsel for the Respondent-Corporation, however, sought to sustain the impugned order and sought time to find out whether any opportunity was given to the petitioner or not before passing the impugned order.

4. Heard the both sides and considered the material on record.

5. From the impugned order dated 16.04.2005, it is clear that reference was made only to the explanation of the petitioner to the Charge Memo, which was received by the 2nd respondent on 07.01.2004. But, thereafter, enquiry was conducted and report was submitted on 26.04.2004, subsequent to which the impugned order is passed by the 2nd respondent, without giving any further show cause notice with reference to the findings arrived against the petitioner by the Enquiry Officer. In the absence of any such show cause notice and opportunity to the petitioner the impugned order is illegal and unsustainable. Therefore, the same is accordingly set aside.

6. Similarly, with reference to the second punishment imposed for recovery of an

amount of Rs.70,909/-, representing the amounts paid towards HRA and Additional HRA, no charge was framed against the petitioner for the proposed recovery and no enquiry was conducted. In the absence of any such proceedings for recovery of HRA and Additional HRA, the respondents-authorities are not entitled to pass the impugned order. Therefore, on that ground, the second punishment is also illegal and unsustainable. Accordingly, the same is set aside.

7. However, it is made clear that the 2nd respondent can issue a show cause notice with reference to the enquiry report received in connection with the first charge for which an enquiry was conducted, and after receiving the explanation of the petitioner, appropriate orders can be passed. It is also further made clear that if the 2nd respondent is proposed to take or initiate any action with reference to the second punishment for recovery of the amounts paid towards HRA and Additional HRA, it is open to the 2nd respondent to initiate proceedings by issuing appropriate Charge Memo or Charge Sheet and then conducted necessary enquiry. Then only, the authorities have to pass appropriate orders, in accordance with law.

8. The Writ Petition is disposed of accordingly, with the above directions. . No costs.

S.Ananda Reddy, J.

22...07...2005

Kvh

To

1 The Vice Chairman and Managing Director, A.P.F.D.C. Limited
Nampally, Hyderabad.

2 The Divisional Manager, APFDC Kothagudem, Khammam District.

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THE HON'BLE MR. JUSTICE S. ANANDA REDDY

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